

**UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF COLUMBIA**

---

HARVINDER S. PUJJI,  
12827 Branchmont Court  
St. Louis, MO 63146

Plaintiff,

v.

FEDERAL AVIATION ADMINISTRATION,

SERVE: Federal Aviation Administration )  
Office of the Administrator, )  
Marion C. Blakey )  
800 Independence Ave., SW )  
Washington, DC 20591 )

Attorney General John Ashcroft )  
U.S. Department of Justice )  
950 Pennsylvania Ave., NW )  
Washington, DC 20530-0001 )

Roscoe C. Howard, Esq. )  
U.S. Attorney's Office for the )  
District of Columbia )  
555 Fourth St., NW )  
Washington, DC 20530 )

Defendant.

---

Civil Action No. \_\_\_\_\_

**COMPLAINT**

Plaintiff Harvinder S. Pujji ("Mr. Pujji") brings this action against defendant Federal Aviation Administration ("FAA") for declaratory, mandatory, and injunctive relief from the FAA's total failure to comply with the Freedom of

Information Act (“FOIA”), 5 U.S.C. § 552. In support of his complaint against the defendant, Mr. Pujji states and alleges the following:

### **Parties**

1. Plaintiff Harvinder S. Pujji is a citizen of India. Mr. Pujji is a legal resident of the United States and currently resides at 12827 Branchmont Court, Saint Louis, Missouri 63146.

2. Defendant Federal Aviation Administration is an agency of the United States Government, whose headquarters is located at 800 Independence Ave., S.W., Washington, D.C. 20591.

### **Jurisdiction and Venue**

3. The Court has subject matter jurisdiction over defendant pursuant to 5 U.S.C. § 552(a)(4)(B), 28 U.S.C. § 1331, and 28 U.S.C. §§ 2201 and 2202.

4. Venue is properly laid in this Court under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§ 1391 (b) and (e) in that, inter alia, this is a civil action in which the defendant resides within this judicial district and a substantial part of the events giving rise to the claims herein occurred within this judicial district.

### **Factual Allegations**

5. On or about April 8, 2002, Mr. Pujji submitted a FOIA request to the FAA requesting that the FAA make available for inspection and copying documents regarding the number of non-U.S. citizens employed by the FAA (the “First FOIA Request”).

6. Under 5 U.S.C. § 552(a)(6)(A)(i) and 49 C.F.R. § 7.31, the FAA was required to make an initial determination whether to release the records within twenty (20) business days of the request, at which time the agency was required by law to notify immediately Mr. Pujji of such determination.

7. The FAA did not notify Mr. Pujji of its initial determination whether to release the requested records within twenty (20) business days of his First FOIA Request.

8. On June 27, 2002, more than fifty (50) business days after he submitted his First FOIA Request, Mr. Pujji, by and through counsel, submitted a second FOIA request to the FAA requesting that the FAA make available for inspection and copying certain documents described in the request (the "Second FOIA Request"). See Ex. A (Letter dated June 27, 2002 from K. McKelvie to V. Bailey).

9. The Second FOIA Request contained eight (8) separate categories of requested information, including: (1) all documents relating to the number of non-U.S. citizens from India employed by the FAA; (2) all documents relating to the number of non-U.S. citizens employed by the FAA, including without limitation documents identifying the citizenship of all such employees; (3) all documents relating to the citizenship or nationality of non-U.S. citizens terminated from the FAA since September 11, 2001; (4) all documents relating to the number of Muslims, Arabs, South Asians (e.g., Pakistani, Indian), or Sikhs who are flight inspectors employed by the FAA; (5) all documents relating to complaints lodged against the FAA regarding Muslims, Arabs, South Asians (e.g., Pakistani, Indian), or Sikhs in and around airports who, upon further investigation, were determined to be employed by the FAA; (6) all documents relating to FAA policies, practices, and procedures regarding the hiring of non-U.S. citizens; (7) all documents relating to FAA policies, practices, and procedures regarding the hiring of non-U.S. citizens issued, published, created, or distributed since September 11, 2001; and (8) all documents relating to any information maintained by the FAA regarding the religion or ethnicity of employees, including without limitation documents regarding

the number of Sikh citizens and non-citizens of the United States employed by the FAA.

10. By letter dated July 15, 2002, the FAA assigned Mr. Pujji's Second FOIA Request file number 2002-6793 and informed him that his request had been assigned to Laurelle J. Robertson, Assistant Administrator for Human Resource Management of the FAA. See Ex. B (Letter dated July 15, 2002 from A. Smith to K. McKelvie).

11. On July 26, 2002, the twenty (20) business day period in which the FAA was required to make an initial determination as to whether it would release the requested documents from the Second FOIA Request expired. As of that date, the FAA had not notified Mr. Pujji of its initial determination as to whether it would release the requested documents.

12. On August 14, 2002, Mr. Pujji, by and through counsel, wrote to Ms. Robertson to inquire about the status of his Second FOIA Request. See Ex. C (Letter dated August 14, 2002 from A. Levin to L. Robertson). Mr. Pujji informed Ms. Robertson that, as of the date of the letter, the FAA's response to the Second FOIA Request was thirteen (13) business days overdue.

13. Mr. Pujji never received a response from the FAA to his August 14, 2002 letter.

14. On September 5, 2002, Mr. Pujji, by and through counsel, again wrote to Ms. Robertson to inquire about the status of his Second FOIA Request. See Ex. D (Letter dated September 5, 2002 from A. Levin to L. Robertson). Mr. Pujji informed Ms. Robertson that, as of the date of the letter, his Second FOIA Request had been pending forty-eight (48) business days. Mr. Pujji asked Ms. Robertson to inform him of the FAA's decision on his request no later than September 12, 2002.

15. Mr. Pujji never received a response to his September 5, 2002 letter.

16. None of the documents that Mr. Pujji sought in his First or Second FOIA Request are exempt from disclosure under 5 U.S.C. § 552(b).

17. Mr. Pujji's FOIA requests are in the public interest because disclosure of the requested information is likely to contribute significantly to public understanding of the operations or activities of the federal government and is not in the commercial interest of Mr. Pujji. In particular, disclosure of the requested information is likely to enhance significantly public understanding regarding employment decisions by the FAA in the wake of the events of September 11th, 2001.

18. Mr. Pujji is a private citizen who does not have any commercial interest pertaining to the documents requested.

**Count I – Declaratory Relief**

19. Mr. Pujji incorporates by reference paragraphs 1 through 18 of this Complaint as if fully set forth herein.

20. The FAA has failed to comply with the public disclosure requirements of 5 U.S.C. § 552(a)(6)(A)(i) and 49 C.F.R. § 7.31.

21. A justiciable controversy exists concerning the FAA's obligation to issue an initial determination whether it would release the documents requested by Mr. Pujji. Mr. Pujji has a justiciable interest in the controversy, which is ripe for adjudication.

22. More than twenty (20) business days have elapsed since Mr. Pujji submitted his First and Second FOIA requests.

23. To date, the FAA has failed to notify Mr. Pujji of its initial determination whether it would release the requested records.

24. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), Mr. Pujji is deemed to have exhausted his administrative remedies with respect to his requests.

25. Therefore, in accordance with 28 U.S.C. §§ 2201 and 2202, Mr. Pujji is entitled to a declaratory judgment that the FAA is in violation of FOIA and associated regulations for failing to notify Mr. Pujji of its initial determination whether it would release the records he requested within twenty (20) business days of his requests.

**Count II – Injunctive Relief under FOIA**

26. Mr. Pujji incorporates by reference paragraphs 1 through 25 of this Complaint as if fully set forth herein.

27. The FAA has failed to comply with the public disclosure requirements of 5 U.S.C. § 552(a)(6)(A)(i) and 49 C.F.R. § 7.31.

28. More than twenty (20) business days have elapsed since Mr. Pujji submitted his First and Second FOIA Request.

29. To date, the FAA has failed to notify Mr. Pujji of its initial determination whether it would release the requested records.

30. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), Mr. Pujji is deemed to have exhausted his administrative remedies with respect to his requests.

31. Therefore, in accordance with 5 U.S.C. § 552(a)(4)(B), Mr. Pujji is entitled to a judgment enjoining the FAA from unlawfully failing to provide information requested pursuant to FOIA and associated regulations, requiring the FAA to produce for copying and inspection those documents requested in Mr. Pujji's FOIA Requests, and requiring the FAA to provide a detailed Vaughn index of any documents that it intends to withhold.

**Prayer for Relief**

WHEREFORE, Mr. Pujji respectfully requests that the Court:

1. Enter a judgment declaring that the FAA has violated FOIA and associated regulations;

2. Enter a judgment enjoining the FAA from unlawfully failing to provide information requested pursuant to FOIA and associated regulations, requiring the FAA to produce for copying and inspection those documents requested in Mr. Pujji's FOIA Requests, and requiring the FAA to provide a detailed Vaughn index of any documents that it intends to withhold; and

3. Award attorneys' fees pursuant to 5 U.S.C. § 552(a)(4)(E) and grant such other and further relief as the Court may deem appropriate.

Respectfully submitted,

HOGAN & HARTSON L.L.P.

By: \_\_\_\_\_  
Robert Duncan (D.C. Bar No. 416283)  
Adam K. Levin (D.C. Bar No. 460362)  
Deborah L. Boardman (D.C. Bar No. 476869)  
555 Thirteenth Street, N.W.  
Washington, D.C. 20004-1109  
(202) 637-5600

Attorneys for Plaintiff Harvinder S. Pujji

Dated: October 3, 2002